

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

iRACING.COM MOTORSPORT SIMULATIONS,
LLC, a Delaware Limited Liability Company,

Plaintiff,

 V_1

TIM ROBINSON, individually and d/b/a
www.ow-racing.com, www.torn8oalley.com and
www.First-Racing-Sucks.com

Defendant.

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Civil Action No.
05-11639 NG

AFFIDAVIT OF
MICHAEL G. ANDREWS
IN SUPPORT OF
MOTION FOR PARTIAL
SUMMARY JUDGMENT

I, Michael G. Andrews, upon oath depose and say as follows:

1. I am an attorney duly admitted in the Commonwealth of Massachusetts and this Court and a member of the law firm Business Litigation Associates, P.C. My firm is counsel to plaintiff iRacing.com Motorsport Simulations, LLC, ("iRacing"), plaintiff in this matter. The information contained in this affidavit is true and correct and is based on my personal knowledge. I am above the age of 18 years and competent to testify.

2. On or around November 9, 2007, I sent a letter to counsel (“Mr. Ryan”) for defendant Tim Robinson (“Mr. Robinson”). In order to streamline this case, the letter requested that Mr. Robinson stipulate that: (a) Robinson has no right to reproduce or distribute copies of NASCAR® 2003 or any derivative versions thereof; (b) iRacing has the exclusive right to the source code and object code of NASCAR® 2003; and (c) iRacing has the exclusive right to

reproduce and distribute copies of its copyrighted works and derivative versions thereof.

3. On November 14, 2007, I received an e-mail from Mr. Ryan stating, "I have not yet been able to establish contact with Mr. Robinson, so I cannot respond to your letter as of yet."

4. Later that day, I responded to Mr. Ryan by e-mail, stating: "Thanks Joe, let me know what you hear. If you do get in touch with Mr. Robinson, we'd also like to request that he stipulate to a permanent injunction enjoining him from violating the NDA. In the absence of such a stipulation, we will also be moving for summary judgment on that claim."

5. I received no further response from Mr. Ryan or Mr. Robinson regarding the requested stipulations.

SUBSCRIBED AND SWORN TO on this 18th day of December 2007.

/S/ Michael G. Andrews_____

Michael G. Andrews

Certificate of Service

I, Michael G. Andrews, attorney for Plaintiff iRacing.com Motorsport Simulations, LLC, hereby certify that on this 18th day of December 2007, I filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to: Joseph F. Ryan, Lyne Woodworth & Evarts LLP, 600 Atlantic Avenue, Boston, MA 02210, counsel for Defendant Tim Robinson.

/S/ Michael G. Andrews_____

Michael G. Andrews